

Application No.: 10/813,603  
Reply to Office Action mailed on March 5, 2008  
Reply dated March 21, 2008

### **AMENDMENTS TO THE DRAWINGS**

The attached Replacement Sheets include changes to FIGS. 1, 2, 4, 7, and 9. Specifically, FIG. 1 has been amended so that two boxes labeled “SECURITY DEVICE” are referenced by numeral 120 and two boxes labeled “INGRESS POINT (NODE)” are referenced by numeral 130. FIG. 2 has been amended such that the box labeled “CAC/SM POLICY” is referenced by numeral 240 and such that the contents of FIG. 2 are referenced by numeral 130. FIG. 4 has been amended to include numerals 410, 411, 412, 413, 420, 421, 430, 433, 434, 435, 440, 441, and 442 consistent with the written description of FIG. 4. FIG. 7 has been amended such that box 610 recites “CALCULATE PACKET DELAY,” box 615 recites, “CALCULATE PACKET DROP RATIO,” correct a spelling error of the term “CALCULATE” in boxes 625 and 675, and to remove the “@” in box 680. FIG. 9 has been amended to replace the symbol “ $\Psi$ ” with the symbol “V.”

## **REMARKS**

In response to the above-identified Office Action, Applicants amend the Application and seek reconsideration in view of the following remarks. In this Response, Applicants amend claims 1-6, 9, 12-15, and 17-21, cancel claims 10-11, and add new claim 27. Accordingly, claims 1-9 and 12-27 are pending in the Application.

### **I. Claim Objections**

The Patent Office objects to the preamble in claims 17-20 for formality reasons. In response thereto, Applicants amend the preamble in claim 17 such that the preamble reads, “A computer-readable medium encoded with a computer program, the computer program comprising code to.” Similarly, the preamble of claims 18-20 has been amended to read, “The computer-readable medium of claim....” Accordingly, Applicants respectfully request withdrawal of the objection to claims 17-20.

### **II. Claims Rejected Under 35 U.S.C. § 102**

Claims 1-2, 5-11, 13-18, and 21-26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0004841 filed by Sawatari (“*Sawatari*”). Applicants have cancelled claims 10-11 and respectfully traverse the rejection of claims 1-2, 5-9, 13-18, and 21-26, at least in view of the amendments to independent claims 1, 9, 17, and 21.

To anticipate a claim, the cited reference must disclose each and every element of the rejected claim (*see* MPEP § 2131). Among other elements, claim 1 defines an apparatus comprising:

[a] first processor configured to apply one of a plurality of call admission policies associated with one of a plurality of severity levels, and selectively transmit packets of data to the second node based on the type of data within each packet in accordance with the one of the plurality of call admission policies. (Emphasis added).

Applicants submit that *Sawatari* fails to disclose at least these elements of amended claim 1.

In making the rejection, the Patent Office alleges that *Sawatari* discloses a node that “can apply a call admission policy to regulate the transmission of packets of data” (Paper No./Mail Date 20080222, page 3, citing control section 15 in *Sawatari*, paragraphs [0043] and [0078]). Applicants disagree with the Patent Office’s characterization of the disclosure in *Sawatari*.

Regarding the control section cited by the Patent Office as allegedly disclosing a call admission policy, paragraph [0036] of *Sawatari* states:

The rate control section 15 controls the rate of transferring RTP packets to transmit from the RTP transmitting section 12. The rate control section 15 receives the data-loss rate from the transmitting-side RTCP receiving section 14 and determines the RTP-packet transfer rate from the data-loss rate. The RTP-packet rate is supplied to the RTP transmitting section 12.

*Sawatari* further discloses that the “data-transmitting apparatus 10 can therefore transmit the real-time data to the data-receiving apparatus 20 at the transfer rate by the rate control section 15” (*Sawatari*, paragraph [0037]). Therefore, Applicants submit that *Sawatari* discloses that rate control section 15 merely controls the rate at which packets are transferred based on the data-loss rate.

By contrast, claim 1 recites a processor configured to “apply one of a plurality of call admission policies associated with one of a plurality of severity levels, and selectively transmit packets of data to the second node based on the type of data within each packet in accordance with the one of the plurality of call admission policies.” That is, the processor is configured to apply a call admission policy that selectively transmits packets of data based according to the call admission policy, which call admission policy may allow/block certain packets of data based on the type (e.g., voice, video, text, etc.) of data in each packet. As such, Applicants submit that *Sawatari*’s disclosure of a rate control section 15 that merely determines the rate at which data packets are transferred is different from a processor configured to “selectively transmit packets of data to the

second node based on a type of data within each packet in accordance with the one of the plurality of call admission policies,” as recited in claim 1. Therefore, *Sawatari* fails to disclose each and every element of amended claim 1.

The failure of *Sawatari* to disclose each and every element of claim 1 is fatal to the anticipation rejection. Therefore, claim 1 is not anticipated by *Sawatari*. Accordingly, Applicants respectfully request withdrawal of the rejection of independent claim 1.

Claims 2 and 5-8 depend from claim 1 and include all of the elements thereof. Therefore, Applicants submit that claims 2 and 5-8 are not anticipated by *Sawatari* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 2 and 5-8.

Regarding the rejection of claims 9, 13-18, and 21-26, Applicants submit that claims 9, 13-18, and 21-26 each recite elements similar to the elements of, “transmit packets of data to the second node based on a type of data within each packet in accordance with the one of the plurality of call admission policies,” as recited in claim 1. Therefore, Applicants submit that claims 9, 13-18, and 21-26 are not anticipated by *Sawatari* at least for the same reasons as claim 1, in addition to their own respective features. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 9, 13-18, and 21-26.

### **III. Claims Rejected Under 35 U.S.C. § 103**

#### ***Sawatari* in view of *Khan***

Claims 3-4, 12, and 19-20 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Sawatari* in view of U.S. Patent No. 6,400,954 issued to Khan et al. (“*Khan*”). Applicants respectfully traverse the rejection, at least in view of the amendments to independent claims 1, 9, and 17.

To render a claim obvious, the cited references must teach or suggest each and every element of the rejected claim (*see* MPEP § 2143). Claims 3-4 depend from claim 1, claim 12 depends from claim 9, and claims 19-20 depend from claim 17 and include all of the elements of their respective

independent claims. In making the rejection, the Patent Office characterizes *Sawatari* similar to the characterization discussed above with respect to the anticipation rejection. Applicants have discussed above the failure of *Sawatari* to disclose at least the elements of, “selectively transmit packets of data to the second node based on a type of data within each packet in accordance with the one of the plurality of call admission policies,” as recited in claim 1 and similarly recited in claims 9 and 17, and submit that such discussion is equally applicable to claims 3-4, 12, and 19-20 via their respective dependencies from claims 1, 9, and 17. Therefore, *Sawatari* fails to disclose each and every element of claims 3-4, 12, and 19-20. The Patent Office relies on the disclosure in *Khan* to cure the defects of *Sawatari*; however, Applicants submit that *Khan* fails to cure such defects.

The Patent Office characterizes *Khan* as disclosing “different service classes in a network” (Paper No./Mail Date 20080222, page 5, citation omitted). The Patent Office does not characterize *Khan* as disclosing the element of, “selectively transmit packets of data to the second node based on a type of data within each packet in accordance with the one of the plurality of call admission policies,” as recited in claims 3-4 (via claim 1) and similarly recited in claims 12 and 19-20 (via claims 9 and 17, respectively). Moreover, in reviewing *Khan*, Applicants are unable to discern any sections of *Khan* disclosing such elements. Therefore, *Khan* fails to cure the defects of *Sawatari*.

The failure of the combination of *Sawatari* and *Khan* to teach or suggest each and every element of claims 3-4, 12, and 19-20 is fatal to the obviousness rejection. Therefore, claims 3-4, 12, and 19-20 are not obvious over *Sawatari* in view of *Khan*. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 3-4, 12, and 19-20.

**B. *Sawatari* in view of *Calvignac***

Claim 26 stands rejected under 35 U.S.C. § 103(a) as being obvious over *Sawatari* in view of U.S. Patent No. 5,557,608 issued to Calvignac et al. (“*Calvignac*”). Applicants respectfully traverse the rejection, at least in view of the amendments to independent claim 21.

To render a claim obvious, the cited references must teach or suggest each and every element of the rejected claim (*see* MPEP § 2143). Claim 26 depends from claim 21 and includes all of the

elements thereof. In making the rejection, the Patent Office characterizes *Sawatari* similar to the characterization discussed above with respect to the anticipation rejection. Applicants have discussed above the failure of *Sawatari* to disclose at least the elements of, “selectively transmit packets of data to the second node based on a type of data within each packet in accordance with the one of the plurality of call admission policies,” as recited in claim 1 and similarly recited in claim 21, and submit that such discussion is equally applicable to claim 26 via its dependency from claim 21. Therefore, *Sawatari* fails to disclose each and every element of claim 26. The Patent Office relies on the disclosure in *Calvignac* to cure the defects of *Sawatari*; however, Applicants submit that *Calvignac* fails to cure such defects.

The Patent Office characterizes *Calvignac* as disclosing “a multilevel precedence and preemptive policy” (Paper No./Mail Date 20080222, page 6, citation omitted). The Patent Office does not characterize *Calvignac* as disclosing the element of, “selectively transmit packets of data to the second node based on a type of data within each packet in accordance with the one of the plurality of call admission policies,” as recited in claim 1 and similarly recited in claim 26 (via claim 21). Moreover, in reviewing *Calvignac*, Applicants are unable to discern any sections of *Calvignac* disclosing such elements. Therefore, *Calvignac* fails to cure the defects of *Sawatari*.

The failure of the combination of *Sawatari* and *Calvignac* to teach or suggest each and every element of claim 26 is fatal to the obviousness rejection. Therefore, claim 26 is not obvious over *Sawatari* in view of *Calvignac*. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 26.

#### **IV. Amendments to the Specification**

Applicants have amended paragraphs [0035]-[0037], [0045], [0047]-[0051], [0056]-[0058], [0068]-[0069], and [0071]-[0076] to correct various typographical errors and reference numerals. Applicants submit that no new matter is added by the amendments to paragraphs [0035]-[0037], [0045], [0047]-[0051], [0056]-[0058], [0068]-[0069], and [0071]-[0076].

**V. Amendments to the Drawings**

Applicants have amended FIGS. 1, 2, 4, 7, and 9 to correct various features of these drawings. Specifically, FIG. 1 has been amended so that two boxes labeled “SECURITY DEVICE” are referenced by numeral 120 and two boxes labeled “INGRESS POINT (NODE)” are referenced by numeral 130. FIG. 2 has been amended such that the box labeled “CAC/SM POLICY” is referenced by numeral 240 and such that the contents of FIG. 2 are referenced by numeral 130. FIG. 4 has been amended to include numerals 410, 411, 412, 413, 420, 421, 430, 433, 434, 435, 440, 441, and 442 consistent with the written description of FIG. 4. FIG. 7 has been amended such that box 610 recites “CALCULATE PACKET DELAY,” box 615 recites, “CALCULATE PACKET DROP RATIO,” correct a spelling error of the term “CALCULATE” in boxes 625 and 675, and to remove the “@” in box 680. FIG. 9 has been amended to replace the symbol “ $\Psi$ ” with the symbol “V.” Applicants submit that no new matter is added by the amendments to FIGS. 1, 2, 4, 7, and 9.

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### **CONCLUSION**

In view of the foregoing, it is believed that all claims now pending are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Patent Office believes that a telephone conference would be useful in moving the application forward to allowance, the Patent Office is encouraged to contact the undersigned at (480) 385-5060 or [jgraff@ifllaw.com](mailto:jgraff@ifllaw.com).

If necessary, the Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 50-2091 for any fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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